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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,996	11/26/2003	Ricky Ah-Man Woo	7768MD	9564

27752 7590 07/12/2005

THE PROCTER & GAMBLE COMPANY
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EXAMINER

HARDEE, JOHN R

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/722,996

Applicant(s)

WOO ET AL.

Examiner

John R. Hardee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-18 and 30-33 is/are pending in the application.
- 4a) Of the above claim(s) 6-10 and 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 3-5, 11, 15-18 and 30-33 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 3-5, 11, 15-18 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trinh et al., US 5,714,137, in view of Behan et al., US 5,676,163 and Wilsch-Irrgang et al., US 5,861,371. The Trinh reference discloses aqueous, odor absorbing compositions for use on inanimate surfaces. The compositions comprise about 0.1% to about 5% by weight of solubilized, uncomplexed cyclodextrin. The compositions are essentially free of any material which would stain or soil fabric, and they have a pH of greater than about 3 (abstract). Suitable cyclodextrins, including combinations of cyclodextrins, are disclosed at col. 5, lines 8+. Cavities should remain uncomplexed (col. 4, lines 8-10, col. 11, lines 59-60). This can be accomplished through the use of aqueous solvents and appropriate choice of perfume materials. Perfume is present at up to about 0.5% (col. 11, lines 40+). Most preferably, at least about 75% of the perfume ingredients should have a Clog P of about 3 or smaller (col. 16, lines 3+), and, most preferably at least about 75% of the perfume materials should come from the table beginning at the middle of col. 12. Note that anisaldehyde is among these materials. Materials with a Clog P of this magnitude are relatively hydrophobic, having a thousand-fold preference for octanol over water. Note the disclosure at col. 12, lines 4+, that most preferably at least about 75% by weight of the perfume materials will have molecular weights of about 130 to about 290. Polyacrylic acid or polyacrylate may be added, as may soluble zinc salts at about 0.1% to about 10% (col. 17, lines 27+).

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Suitable surfactants are disclosed at col. 20, lines 13+. Water soluble cationic polyamines may be added as well. This reference differs from the claimed subject matter in that it does not specifically disclose use of a class I or II aldehyde in the recited amounts, or of an odor blocker in the recited amounts.

Behan et al. teaches at col. 2, line 51 that anisaldehyde is a class I aldehyde, and Wilsch-Irrgang et al. teaches at col. 3, lines 7+ that terpenes, including alpha-terpineol, are useful deodorizers in cleaning compositions. Note also the disclosure in applicant's specification at p. 16, lines 15+ that the odor blockers and class I and II aldehydes contemplated for use in these compositions are those disclosed in the cited secondary references.

It would have been obvious at the time the invention was made to make such a composition, because this reference teaches that all of the ingredients recited by applicants are suitable for inclusion in an odor absorbing composition. The person of ordinary skill in the surfactant art would expect the recited compositions to have properties similar to those compositions which are exemplified, absent a showing to the contrary.

In the case where the claimed ranges overlap or lie inside ranges disclosed by the prior art, a *prima facie* case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed Cir. 1990). Regarding packaging with instructions, both of these are obvious expedients, and the specific content of the instructions does not add patentable weight.

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3. Claims 3-5, 11, 15-18 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trinh et al., US 5,714,137, in view of Behan et al., US 5,676,163 and Wilsch-Irrgang et al., US 5,861,371 as cited above, and further in view of JP 10-194,905. The disclosures of the Trinh, Wilsch-Irrgang and Behan references are summarized above. At col. 7, lines 13+, Trinh teaches that water soluble antimicrobial preservatives, including low molecular weight aldehydes, may be added at 0.001 to about 0.5% by weight. The JP teaches at [0007], line 4 that anisaldehyde, a low molecular weight aldehyde, has antibacterial and antifungal properties. Accordingly, it would have been obvious at the time that the invention was made to add anisaldehyde at 0.001 to about 0.5% to act as a preservative.

Response to Arguments

4. Upon reconsideration, applicant's recitation of a pH of more than about 3 places limits on the amount of acidic material which may be present. The new matter rejection is withdrawn.

Applicant's arguments regarding the amount of anisaldehyde present in the cited composition are not persuasive. The reference provides motivation to add perfume at ten times the amount exemplified in Example X, and for anisaldehyde to be present in much higher concentrations than is exemplified. Accordingly, the recited percentage of class I aldehyde could be met while working within the teachings of the reference. Trinh's teaching of the utility of low molecular weight aldehydes as preservatives, and

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the teaching in the JP that anisaldehyde is an antibacterial and an antifungal provide further motivation to incorporate anisaldehyde in the amounts recited.

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to the examiner, Dr. John R. Hardee, whose telephone number is (571) 272-1318. The examiner can normally be reached on Monday through Friday from 8:00 until 4:30. In the event that the examiner is not available, his supervisor, Dr. Yogendra Gupta, may be reached at (571) 272-1316.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "J. Hardee", with a stylized, cursive script.

John R. Hardee
Primary Examiner
July 7, 2005